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for the Substantively Consolidated SIPA Liquidation
of Bernard L. Madoff Investment Securities LLC
and the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

ASPEN FINE ARTS CO.,

Defendant.

Adv. Pro. No. 10-04335 (SMB)

**STIPULATION AND ORDER FOR VOLUNTARY DISMISSAL
OF ADVERSARY PROCEEDING WITHOUT PREJUDICE**

Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”), and the substantively consolidated estate of Bernard L. Madoff individually (“Madoff”), by and through their counsel, Baker & Hostetler LLP, and Defendant Aspen Fine Arts Co. by and through its counsel, Matthew A. Kupillas, Milberg Tadler Phillips Grossman LLP (collectively, the “Parties”), hereby stipulate and agree to the following:

1. On November 30, 2010, the Trustee filed and served the Complaint against Defendant.
2. On December 14, 2011, the Trustee filed and served an Amended Complaint against Defendant.
3. On September 18, 2015, Defendant filed and served its Answer to the Amended Complaint on the Trustee.
4. Pursuant to the Settlement Procedures Order, entered by this Court on November 12, 2010 [Dkt. No. 3181], the Parties entered into a Settlement Agreement and Release on October 22, 2018.
5. In accordance with Federal Rule of Bankruptcy Procedure 7041(a)(1)(ii), and Federal Rule of Civil Procedure 41(a)(1), the Parties hereby stipulate to a dismissal without prejudice of the Trustee’s claims against Defendant in the above-captioned adversary proceeding and dismissal of the adversary proceeding without prejudice, subject to the right of the Trustee to move *ex parte* to re-open this adversary proceeding in the event of an uncured default under the terms of the Settlement Agreement. Upon the Trustee’s receipt of the full Settlement Amount as set forth in the Settlement Agreement, and provided there is no default under the Settlement

Agreement, this dismissal shall be deemed with prejudice.

6. The provisions of this Stipulation shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and upon all creditors and parties of interest.

7. This Stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this Stipulation shall be deemed an original.

8. The Bankruptcy Court shall retain jurisdiction over this Stipulation.

Date: November 6, 2018
New York, New York

BAKER & HOSTETLER LLP

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Dated: **November 6, 2018**
New York, New York

SO ORDERED:
/s/ STUART M. BERNSTEIN
Hon. Stuart M. Bernstein
United States Bankruptcy Judge